

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

**CRIMINAL APPEAL No. 174 of 2007
(Old No.214 of 1988)**

Jogeshwar Singh S/o Gangeshwar Singh

... Appellant

Versus

Kunwar Singh & **eighteen others**

... Respondents

Dated: August 16, 2007

HON. DHARAM VEER, J.

This appeal, preferred u/s 378(4) of Code of Criminal Procedure, 1973 against the judgment and order dated 11.9.1987 passed by Munsif Magistrate, Lansdowne in Criminal Case No. 145 of 1985 whereby the learned Munsif Magistrate has acquitted the Respondent No.12 Lakhan Singh u/s 452/379 of IPC and other respondents' u/s 452/323 of IPC.

This appeal has been transferred to this Court from the Allahabad High Court under Section 35(2) of U.P. Reorganization Act, 2000. After the transfer of the appeal, the notices were issued to the appellant and respondents on 18.6.2007. In compliance of the said notices, Tehsildar Lansdowne vide his report dated 19.7.2007 has informed this Court that present appellant Jogeshwar Singh and Respondent No.1 Kunwar Singh have been died. Today, there is no representation on behalf of the appellant as well as of the respondents.

In brief, the facts of the case are that during the period 1963 to 1978, accused Kunwar Singh, Up-Pradhan had committed fraud in the water plan of the village and the report to this effect was lodged by appellant time to time to various officers due to which Kunwar Singh started having enmity with him. Thereafter, the Patwari and Kanungo on the report of one Ludar Singh had made an enquiry against the appellant and his wife and a son Chandra Mohan Singh and in the

evening of 14.7.1979, the accused persons had surrounded the house of appellant and arrested the appellant and the wife and son of appellant were also arrested and by Peon Bhairav Singh and Jagmohan Singh, the appellant was sent to P.S. Sumerusain which is about a distance of about one furlong from the house of appellant. Patwari, Kanungo and other accused persons entered into the house of appellant and made a search and at 8-9 P.M., by arresting the wife and son of appellant, they had taken one Tin box, one copper water pot, one aluminum *Parat* and a new bed with them. It was stated that the accused persons have grab the various valuable articles of the appellant and they also beaten the appellant and his wife and son and hurled abuses. Even the wife of the appellant was got naked and an injury was also caused on her private part. On the next date, the son of the appellant was released on bail and the wife of appellant was sent in Pauri Jail and appellant was kept in Lansdowne Jail. After releasing from the Jal, he got the medical examination of the injuries of his wife in Govt. Hospital, Sumerusain from 27.7.1979 to 2.8.1979. Thereafter, on 6.8.1979, he went to SDM (P) Pauri and a gave a complain but no action was taken. Thereafter on 4.9.1979, he again sent an application to D.M. Pauri Garhwal about the said incident and on 6.4.1980, SDM, Lansdowne went for investigation but the inquiry was not done in an appropriate way. Thereafter, he continued to send his complaint to various authorities but no action was taken and at last he filed a complaint in the court of Munsif Magistrate, Lansdowne with a prayer to register the case against the accused persons/respondents u/s 323/147/392/452/454 IPC.

After recording the statements under Section 200 and 202 of Cr.P.C., the accused persons were

summoned under Section 323/147/392/452 IPC. Thereafter, the statements of PW.1 Jogeshwar Singh, PW.2 Gopal Singh, PW.3 Rajeshwari Devi and PW.4 Bagh Singh were recorded under Section 244 Cr.P.C. Later on, the charge was framed against accused Lakhan Singh under Section 452/379 IPC and against rest of the accused under Section 452/323 of IPC. The charge was read over and explained to the accused who denied the charge and claimed to be tried.

Thereafter, the statements of PW.1 Jogeshwar Singh, PW.2 Gopal Singh, PW.3 Rajeshwari Devi, PW.4 Bagh Singh and PW.5 Chandra Mohan were recorded under Section 246 Cr.P.C. After considering the entire material available on record and hearing learned counsel for the parties, the learned Munsif Magistrate, Lansdowne acquitted the accused Lakhan Singh under Section 452/379 IPC and rest of the accused under Section 452/323 IPC.

I have perused the judgment and order dated 11.9.1987 passed by Munsif Magistrate, Lansdowne and also perused the statements of the witnesses and also perused entire material available on record.

I do not find any illegality or irregularity in the judgment and order dated 11.9.1987 passed by Munsif Magistrate, Lansdowne. The learned Magistrate has passed the order on the basis of the evidence available on record and the order is perfectly justified as per law.

Hence, the appeal is devoid of merit and is hereby dismissed. The judgment and order dated 11.9.1987 passed by Munsif Magistrate, Lansdowne is hereby confirmed.

(Dharam Veer, J.)

August 16, 2007

Rajeev Dang